Supreme Court of the United States.

No. 115.—October Term, 1902.

Harriet M. Zane, Petitioner, vs. The County of Hamilton, Illinois. } On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit.

[April 6, 1903.]

Mr. Justice McKenna delivered the opinion of the Court.

This is an action brought in the United States Circuit Court for the Southern District of Illinois on five coupon bonds which were issued to the St. Louis and Southeastern Railway Company, under a statute of the State of Illinois. The petitioner alleges she is a *bona fide* purchaser of the bonds. A copy of the bonds is inserted in the margin.* The following is a copy of the coupons attached to the bonds:

"$35.00. $35.00.

McLeansboro, Hamilton County, Illinois.

January 1st, 1872.

"The County of Hamilton, in the State of Illinois, promises to pay the sum of thirty-five dollars on the first day of January, 1892, lawful money of the United States of America, being six months' interest on bond No. 46 for one thousand dollars, issued on subscription to the St. Louis and Southeastern Railway Company.

"This coupon is payable in the city of New York.

J. W. Marshall, *Clerk.*"

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*United States of America.

No. 36. Bond of $1,000.00.

Hamilton County.

Interest seven per cent. Payable semi-annually.

State of Illinois.

Know all men by these presents, that the County of Hamilton, in the State of Illinois, acknowledges itself indebted and firmly bound to the St. Louis and Southeastern Railway Company, or bearer, in the sum of one thousand dollars, lawful money of the United States of America, which sum said county for value received promises to pay the said company, or bearer, in the city and State of New York,

The bonds were a part of an issue of two hundred of like tenor and amount, save as to dates of issue, registration and numbers. There was a general demurrer filed to the declaration, which was sustained, and the case was taken to the Circuit Court of Appeals for the Seventh Circuit. That court affirmed the judgment of the Circuit Court. (104 Fed. Rep. 63.)

The question presented is the validity of the statute of the State under which the bonds were issued. The Circuit Court of Appeals followed the case of *The People ex rel.* v. *Hamil,* (134 Ill. 666,) and (quoting from the case) held that the statute was invalid "'because section 20 of the act mentioned was void, as being in violation of the provision of the constitution of the State that no private or local law . . . shall embrace more than one subject, and that shall be expressed in the title.'"

It was alleged in the declaration and the bonds recited that they were issued under the provisions of an act of the general assembly of the State of Illinois, in force March 10, 1869, entitled "An act to incorporate the

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twenty years after date, payable at any time before this bond becomes due after five years at the pleasure of said County of Hamilton, with interest thereon from the date hereof at the rate of seven per cent per annum, payable semi-annually on the first days of January and July in each year, on the presentation and surrender, at the place in said city of New York, where the treasurer of the State of Illinois pays the interest and debt of said State, of the coupons hereto attached as they severally become due.

This bond is one of two hundred of like tenor and amount, of same issue, and it is issued under and by virtue of the authority given by a majority of all the legal voters in said county, by their votes, at an election held in said county, pursuant to law, on the third day of November, A. D. 1868, and also by the authority given by the provisions of an act of the general assembly of the State of Illinois, in force March 10, A. D. 1869, entitled "An act to incorporate the St. Louis and Southeastern Railway Company."

This bond is also issued under the provisions of an act of the general assembly of the State of Illinois, in force April 16, A. D. 1869, entitled "An act to fund and provide for the payment of the railroad debts of counties, townships, cities and towns."

This bond is issued in part payment of a subscription made by said county under and by virtue of the authority aforesaid, to the capital stock of the St. Louis and Southeastern Railway Company, in the sum of two hundred thousand dollars.

In testimony whereof, the said County of Hamilton has executed this bond, by the county judge of said county under the order of the county court of said county, signing his name hereto, in open court, and by the clerk of said court, in obedience to the order thereof, attesting the same and affixing hereto the seal of the said court, in open court.

Done at the court house at McLeansboro, in said county, on this the 23d day of October, Anno Domini 1871.

[SEAL.] T. B. STEELE,
County Judge of Hamilton County, Ill.

St. Louis and Southeastern Railway Company," and also under the provision of an act in force April 16, 1869, entitled "An act to fund and provide for the payment of railroad debts of counties, townships, cities and towns."

The act of April 16, 1869, was a mere registration act, and, it is conceded, conferred no authority to issue the bonds. Ample authority, however, it is insisted, was given by the act of March 10, 1869. Sections 15, 16 and 17 provided for the subscription by counties and cities and incorporated towns to the stock of the company, and the terms of issue and payment of the bonds and the section 20 provides as follows:

"And the said company may lease or purchase upon such terms as may be agreed upon, any other railroad or part of railroad, either wholly or partially constructed, which may constitute or be adopted as part of their line; and by such lease or purchase they shall acquire and become vested with all the rights and franchises pertaining to said road or part of road in the right of way, construction, maintenance and working thereof. And the county court of Gallatin County is hereby authorized and empowered to subscribe to the capital stock of this company the one hundred thousand dollars or any part thereof heretofore voted by a majority of the legal voters of said county to the Shawneetown branch of the Illinois Central Railroad Company. And the county court of Hamilton County is hereby authorized and empowered to subscribe to the capital stock of this company the two hundred thousand dollars or any part thereof heretofore voted by a majority of the legal voters of said county to the Shawneetown branch of the Illinois Central Railroad Company. And the county court of Jefferson County is hereby authorized and empowered to subscribe to the capital stock of this company the one hundred thousand dollars or any part thereof voted by a majority of the legal voters of said county to the Mount Vernon Railroad Company.

"And it shall not be necessary to submit the question of making the several subscriptions in this section mentioned to the vote of the legal voters of said respective counties: *Provided*, That nothing herein shall be so construed as to prevent either of the counties mentioned in this section subscribing any other or larger amounts to the capital stock of this company than the amount mentioned in this section.

"This act shall be deemed a public act and shall be liberally construed for all purposes therein expressed and declared, and shall be in force from and after its passage."

As we have seen, this act was declared by the Supreme Court of the State in *The People ex rel.* v. *Hamil*, (134 Ill. 666,) to be in violation of the constitution of the State, and that the bonds issued under it were void. This decision, plaintiff in error contends, is contrary to prior decisions interpreting the constitution of the State, and under the faith of which she purchased the bonds, and she insists that a contract hence arose which is protected by the Constitution of the United States. To support the contention a number of decisions are cited, but we do not consider it necessary

to review them. The conclusion of plaintiff in error is but a deduction from them, and we need only consider the more direct cases.

In 83 Ill. 436 it was decided that the provisions of the constitution, that "no private or local law . . . shall embrace more than one subject, and that shall be expressed in its title," did not require that the subject of the bill should be specifically and exactly expressed in the title, and it was concluded that when the title calls attention to the subject of the bill, although in general terms, it fulfilled the requirement of the constitution. In *City of Ottawa* v. *The People ex rel.*, (48 Ill. 233,) it was held that the "adjuncts of the subject are not required to be expressed or the *modus operandi*."

In *The Belleville &c. Railroad Co.* v. *Gregory*, 15 Ill. 20, (1853), and *Supervisors of Schuyler Co.* v. *People ex rel. R. I. & Alton R. R. Co.*, (1860), 25 Id. 121, it was held that a subscription to the stock of a railroad company by a municipal corporation was so far germane to the incorporation of the railroad as not to require specific mention in the title of an act providing for the incorporation of such road. But whatever may be said of the reasoning of those cases, the contention of plaintiff in error goes beyond it. If an incorporation of a railroad and a subscription to its stock are parts of the same subject, the incorporation of one road and the transfer to it of the stock authorized to be taken in another road are certainly not parts of the same subject, more particularly when the subscription to the stock of the latter depended upon and was based upon the vote of the people of the county. And this the Supreme Court decided in *The People ex rel.* v. *Hamil, supra.* It was also decided that the act of 1869 was not a private and local act. The court said:

"It is seen the act of March 10, 1869, to which reference is made as giving the requisite authority to the county to subscribe for the stock and issue the bonds, is 'An act to incorporate the St. Louis and Southeastern Railroad Company.' That is all it purports to be by its title. The constitution of 1848, under which this act was passed, contained a restriction that 'no private or local law which may be passed by the general assembly shall embrace more than one subject, and that shall be expressed in the title.' This is a private or local act, and although the subscribing by counties, &c., to the capital stock of the corporation thereby created is germane to the object expressed in the title, (*Belleville &c. Railroad Co.* v. *Gregory*, 15 Ill. 20; *City of Virden* v. *Allan*, 107 Id. 505,) the diversion to that corporation of a subscription theretofore authorized by a vote of the people to be made to a different corporation is a wholly different thing. That, it is to be presumed, affects, adversely, the corporation from which the subscription voted is to be diverted, and is, therefore, clearly not germane to the title of the act, and section 20 must therefore be held to have been inhibited by the constitution of 1848, and is for that reason void and of no effect. (*Lockport* v. *Gaylord*, 61 Ill. 276; *Middleport* v. *Ætna Life Insurance Co.*, 82 Id. 562.)"

It was held in *The Belleville &c. Rd. Co.* v. *Gregory, supra*, that the provision of the constitution of that State could not be evaded by declaring a private act to be a public one.

From these views it follows that the bonds of plaintiff in error, having been illegally issued, do not constitute a contract which is protected by the Constitution of the United States.

Judgment affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.